

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTONIO CROSS,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 13 CV 2269
CITY OF CHICAGO, et. al.)	
)	Judge John Z. Lee
Defendants.)	
)	Magistrate Judge Mary M. Rowland
)	

JOINT INITIAL STATUS REPORT

Atty. Benjamin E. Starks, representing Plaintiff, Antonio Cross (“Plaintiff”), and Atty. Josh M. Engquist and Carla M. Kupe-Arion, representing Defendant, City of Chicago and Christopher Wallace, representing Officer Dante Servin Star#21133, hereby submit to the Court the following Initial Status Report:

1. The Nature of the Case:

A. The attorneys of Record are as follows:

- (i) Benjamin E. Starks, representing Plaintiff, Antonio Cross (“Cross”).
- (ii) Josh M. Engquist and Carla M. Kupe-Arion representing Defendant, City of Chicago.
- (iii) Christopher Wallace representing Defendant, Dante Servin.

B. The basis for federal jurisdiction is a claim for excessive use of force in violation of the fourth amendment to the United States Constitution brought under 42 U.S.C. §1983.

C. Plaintiff has brought state law claims for battery, malicious prosecution and intentional infliction of emotional distress against Defendants City of Chicago and Officer Dante Servin. Additionally, Plaintiff Cross has asserted a federal claim under

section 1983 for the excessive and unreasonable use of force by Defendant Servin which resulted in Mr. Cross suffering serious and permanent injuries. Plaintiff further contends that at all relevant times, Defendant Dante Servin, was acting within the scope of his employment with Defendant City of Chicago thereby rendering the City of Chicago vicariously liable under the doctrine of *respondeat superior*. There are no counterclaims asserted in this cause of action which is pending before this honorable court.

D. Plaintiff, Antonio Cross, asserts that Defendant, City of Chicago, by and through police officer Dante Servin ("Servin") who while acting under the color of law and within the scope of his employment as a Chicago police officer, on March 21, 2012 near the area of 3100 W. 15th Place, approached and detained the Plaintiff and several other individuals. Officer Servin thereafter drew his firearm and fired several shots at the Plaintiff and the other individuals. One shot struck Cross in the hand causing serious injuries. Another shot struck Rekia Boyd, who was present with the Plaintiff, in the head causing her death.

At all times relevant, Antonio Cross and the persons he was with were unarmed and did not pose a risk of imminent threat of harm to officer Servin. In an effort to cover up the shooting, the Defendants arrested the Mr. Cross and initiated and participated in furnishing false information leading to the malicious prosecution of the Plaintiff. Almost a year later, the criminal charges were terminated in a manner indicative of Plaintiff's innocence. The City of Chicago is vicariously liable for the actions of its officer, Defendant Servin, under the doctrine of *respondeat superior*.

Defendant Servin's counsel's version of the major legal and factual issues in the case are as follows:

Whether or not Defendant Servin's firing his weapon at Plaintiff constituted excessive force under the Fourth Amendment, and whether or not Plaintiff was subjected to a malicious prosecution subsequent to the shooting incident.

E. Plaintiff seeks damages in excess of \$50,000.00, exclusive of interest, costs and attorney's fees, for serious physical and emotional harms and losses he sustained as a result of being shot by officer Servin, and damages for the emotional and traumatic harms he suffered while being maliciously prosecuted as a result of false allegations made by the City of Chicago and certain police personnel including but not limited to officer Dante Servin.

2. Pending Motions and Case Plan

A. There are no pending motions at this juncture.

B. Discovery

Plaintiff requires discovery on its claims. Defendant, City of Chicago have answered the Complaint and Defendant, City of Chicago, may require discovery on the basis for their denials, if any.

- (i) The general type of discovery needed are background information on Dante Servin star# 21133 and any excessive force claims. Defendant Dante Servin's counsel does not agree that Servin's background is relevant or needed.
- (ii) Rule 26(a)(1) disclosures to be made on or before June 14, 2013.
- (iii) Written discovery are to be issued on or before June 24, 2013.
- (iv) The cutoff of fact discovery date will be November 1, 2013.
- (v) Expert discovery: N/A (subject to change in the event the need for expert discovery should arise).
- (vi) Any dispositive motions to be filed on or before December 1, 2013.
- (vii) The parties intend to submit a standard protective order and a HIPA order for entry in this matter.

C. Plaintiff and Defendant, City of Chicago, are requesting a trial by jury and that the

expected length of trial shall last approximately seven (7) days.

3. Consent to Proceed Before a Magistrate Judge

The Plaintiff consents to proceed before a Magistrate Judge but the Defendant does not consent to proceed before a Magistrate Judge.

4. Status of Settlement Discussions

The Plaintiff and the Defendant, City of Chicago, have not had any informal discussions regarding settlement and the City is not asking for a settlement conference. However, Plaintiff is amenable in regards to scheduling a settlement conference with the court.

Date: May 23, 2013

By: /s/ Benjamin E. Starks
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